REMARKS

Upon entry of the instant amendment, claims 1-9 are pending. New Claims 8 and 9 have been added. A Request for Continuing Examination is included herewith. Claim 1 has been amended to more particularly point out the applicant's invention. It is respectfully submitted that upon entry of the instant amendment, the application is in condition for allowance.

CLAIM REJECTIONS-35 USC § 112

Claim 1 has been rejected under 35 USC § 112, second paragraph based upon the lack of an antecedent basis for the term "peripheral". . It is respectfully submitted that Claim 1, as amended, obviates this rejection. Accordingly, the Examiner is respectfully requested to reconsider and withdraw this rejection.

CLAIM REJECTIONS – 35 U.S.C. § 103

Claims 1-7 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al, U.S. Patent No. 6,6697,944 ("the Jones et al patent") in view of Birrell et al , et al., U.S. Patent No. 6,332,175 ("the Birrell et al patent"). It is respectfully submitted that the Examiner has failed to make a *prima facie* case of obviousness.

As set forth in Section 2143 of the MPEP:

> *"To establish a prima face case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claim combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure."*

It is respectfully submitted that neither the Jones et al nor the Birrell et. Al patents disclose all of the elements of the claims as required by the MPEP section quoted above. Indeed, the claims now recite that the playback device is configured to download encrypted or encoded digital data from the Internet for playback on said playback device. New claims 8 and 9 recite that the playback device is configured to create and edit a play list. None of the features are recited in either the Jones or Birrell patents. For all of the above reasons, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Respectfully submitted,

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